

AUG 10 2006

Application No: 09/821,183
Attorney's Docket No: US010105**REMARKS/ARGUMENTS**

Claims 1-9, 11-19, 21, and 22 are pending in the present application of which claims 1, 6, 11, 16, 21, and 22 are independent. Applicant hereby amends claims 1, 6-9, 11, 16-19, 21, and 22.

The Office Action rejects claims 1, 5, 6, 11, 15, 16, 21, and 22 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,353,764 to Imagawa et al. (hereinafter "Imagawa") in view of U.S. Patent No. 6,922,843 to Herrington et al. (hereinafter "Herrington"). The Office Action rejects claims 2, 7, 12, and 17 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Imagawa in view of Herrington and U.S. Publication No. 2001/0056225 to DeVito (hereinafter "DeVito"). The Office Action rejects claims 3, 8, 13, and 18 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Imagawa in view of Herrington, DeVito, and U.S. Patent No. 6,169,842 to Pijnenburg et al. (hereinafter "Pijnenburg"). The Office Action rejects claims 4, 9, 14, and 19 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Imagawa in view of Herrington and U.S. Patent No. 6,054,981 to Kimoto et al. (hereinafter "Kimoto"). Applicant respectfully traverses the above rejections for at least the reasons set forth below.

REJECTION UNDER 35 U.S.C. § 103

The Office Action rejects claims 1, 5, 6, 11, 15, 16, 21, and 22 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Imagawa in view of Herrington. Applicant respectfully traverses this rejection. Applicant respectfully submits that Imagawa and Herrington, considered

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singly or in combination, fail to disclose, teach, or suggest the subject matter as recited in independent claims 1, 6, 11, 16, 21, and 22.

Claims 1, 6, 11, 16, 21, and 22 recite performing an action item to automatically adjust a media player or device in accordance with action preferences of a user. This subject matter relates to adjusting a media player or device based on user preferences of a user obtained either explicitly or implicitly. For example, a user may specify that he or she likes to pause the media player when the telephone rings unless the call is from a particular telephone number. Alternatively, the user's preferences could be obtained by monitoring the user's interactions in order to define a given set of circumstances and the corresponding action item that should be performed. The action performed upon satisfaction of a condition therefore varies based on the preferences of the user.

Applicant respectfully submits that Imagawa does not disclose, teach, or suggest this subject matter. The system of Imagawa determines candidates for the content of control based on the predetermined attribute of the person selected by the operator selection section and his or her peripheral environment. See col. 5, ln. 42-47. The predetermined attribute may include the use of a voice or sign language to indicate the content of the control. See col. 5, ln. 53-54. After determining the control object and the content of control, the system then effects the determined control on the determined control object. See col. 6, ln. 22-29. Thus, while the user's physical actions and spoken words are used to control the device, the user's individual preferences do not change the action taken by the control content candidate determination section of Imagawa. In

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other words, the action taken for a given attribute is the same for each user and is not in accordance with action preferences of a user.

Applicant respectfully submits that Herrington also does not disclose, teach, or suggest the subject matter described above. Herrington describes an interactive television program guide system including a program guide database for storing program guide information. See col. 7, ln. 24-32. Remote controls for use with the system may include a favorites key to invoke functions related to user preferences and a delete key to delete menu items or express a disinterest in certain user preferences. See col. 9, ln. 5-8. The system of Herrington therefore incorporates preferences based on the user's viewing interests, but does not automatically adjust a device based on actions preferred by the user. In other words, the user preferences described in Herrington are implemented to enable the user to control the program guide in accordance with his or her viewing preferences, not to automatically adjust the device in accordance with action preferences.

For at least the forgoing reasons, it is respectfully submitted that the combination of Imagawa and Herrington fails to disclose, teach, or suggest performing an action item to automatically adjust a device in accordance with action preferences of a user, as recited in claims 1, 6, 11, 16, 21, and 22.

At least by virtue of the failure of both Imagawa and Herrington to disclose, teach, or suggest the subject matter according to the combinations recited in claims 1, 6, 11, 16, 21, and 22, the Office Action has failed to establish a *prima facie* case of obviousness as required under 35 U.S.C. § 103. Claim 5 depends from claim 1 and is allowable over Imagawa in view of

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Herrington at least by virtue of its dependency. Claim 15 depends from claim 11 and is allowable over Imagawa in view of Herrington at least by virtue of its dependency.

For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 1, 5, 6, 11, 15, 16, 21, and 22 under 35 U.S.C. § 103 be withdrawn.

The Office Action rejects claims 2, 7, 12, and 17 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Imagawa in view of Herrington and DeVito. Claim 2 is allowable based at least on its dependence from claim 1 for the reasons stated above in connection with the rejection of claim 1. Claim 7 is allowable based at least on its dependence from claim 6 for the reasons stated above in connection with the rejection of claim 6. Claim 12 is allowable based at least on its dependence from claim 11 for the reasons stated above in connection with the rejection of claim 11. Claim 17 is allowable based at least on its dependence from claim 16 for the reasons stated above in connection with the rejection of claim 16. DeVito fails to overcome the deficiencies in Imagawa and Herrington described above. For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 2, 7, 12, and 17 under 35 U.S.C. § 103 be withdrawn.

The Office Action rejects claims 3, 8, 13, and 18 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Imagawa in view of Herrington, DeVito, and Pijnenburg. Claim 3 is allowable based at least on its dependence from claim 1 for the reasons stated above in connection with the rejection of claim 1. Claim 8 is allowable based at least on its dependence from claim 6 for the reasons stated above in connection with the rejection of claim 6. Claim 13 is allowable based at least on its dependence from claim 11 for the reasons stated above in

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connection with the rejection of claim 11. Claim 18 is allowable based at least on its dependence from claim 16 for the reasons stated above in connection with the rejection of claim 16. DeVito and Pijnenburg fail to overcome the deficiencies in Imagawa and Herrington described above. For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 3, 8, 13, and 18 under 35 U.S.C. § 103 be withdrawn.

The Office Action rejects claims 4, 9, 14, and 19 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Imagawa in view of Herrington and Kimoto. Claim 4 is allowable based at least on its dependence from claim 1 for the reasons stated above in connection with the rejection of claim 1. Claim 9 is allowable based at least on its dependence from claim 6 for the reasons stated above in connection with the rejection of claim 6. Claim 14 is allowable based at least on its dependence from claim 11 for the reasons stated above in connection with the rejection of claim 11. Claim 19 is allowable based at least on its dependence from claim 16 for the reasons stated above in connection with the rejection of claim 16. Kimoto fails to overcome the deficiencies in Imagawa and Herrington described above. For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 4, 9, 14, and 19 under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

In view of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.


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While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the correspondence attorney listed below in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
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